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PATENT  
ATTORNEY DOCKET NO.: 044574-5045-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
  
Roland E. BARON *et al.*  
  
Application No.: 09/939,709  
  
Filed: August 28, 2001  
  
For: METHODS OF USING AGENTS THAT  
MODULATE BONE FORMATION AND  
INHIBIT ADIPOGENESIS

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) Group Art Unit: 1632  
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) Examiner: Voitach, Joseph T.  
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Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

PRELIMINARY AMENDMENT

Prior to the examination of the above-identified application on the merits, please amend the application as follows:

In the Claims:

Please cancel claims 19-22, and 25-30 without prejudice or disclaimer of the subject matter claimed herein.

Please add the following new claims:

31. (New) The method of claim 23, wherein the cell is an *in vitro* cell.

32. (New) The method of claim 31, wherein the cell is selected from the group consisting of calvarial cell, osteoblast, osteoclast, chondrocyte, and pluripotent precursor cell.

33. (New) The method of claim 32, wherein the osteoblast is selected from the group consisting of MC3T3-E1, C2C12, MG-63, U2OS, UMR106, ROS 17/2.8, and SaOS2.

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Commissioner of Patents  
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**AMENDMENT TRANSMITTAL FORM**

1. Transmitted herewith is a Preliminary Amendment.

2. Additional papers enclosed:

- ☐ Information Disclosure Statement
- ☐ Form PTO-1449, \_\_\_ references included
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.
- ☐ Drawings: ☐ Formal ☐ Informal (Correction)

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☒ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 410.00	\$ 205.00
<input type="checkbox"/> three months	\$ 930.00	\$ 465.00
<input type="checkbox"/> four months	\$ 1,450.00	\$ 725.00
<input type="checkbox"/> five months	\$ 1,970.00	\$ 985.00

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension of time fee due with this request: \$0.00

4. Constructive Petition

☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	32	minus	32	0	x \$18.00 each=	\$ 0.00
Independent Claims (37 C.F.R. §1.16(b))	2	minus	8	0	x \$84 each=	\$ 0.00
[ ] First presentation of Multiple dependent claim(s)					\$280.00	\$ 0.00
SUB-TOTAL =						\$ 0.00
Fee for __ Month Extension of Time						\$ 0.00
Reduction by ½ for filing by a small entity						\$ 0.00
TOTAL FEE =						\$0.00

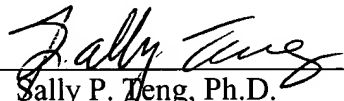
6. Fee Payment

- ☐ The Commissioner is hereby authorized to charge \$0.00 to Deposit Account No. 50-0310 for Two-Month Extension of Time Fee
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully Submitted,  
**Morgan Lewis & Bockius LLP**

Date: March 5, 2003  
Morgan Lewis & Bockius LLP  
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